123. Because BellSouth assumes far higher labor costs for new connects than for switching customers with existing services, adjusting BellSouth's assumption of new connections from 20 percent to 4.8 percent dramatically reduces the non-recurring charge for a 2-wire analog voice grade loop. In fact, adjusting this one calculation would reduce the non-recurring charge for these loops by over 30 percent.

G. The costs of OSS development are imposed solely on new entrants and are a significant barrier to entry.

124. BellSouth charges $9.16 per electronic order as a non-recurring charge for BellSouth's costs of developing the OSS gateway which allows BellSouth's OSS to interface with competitors' ordering systems. OSS is another area which the staff consultant admits she did not have the time to fully analyze and, therefore, she fully accepted BellSouth's numbers. See Hearing Transcript (examination of Dismukes) at 3120.

125. The $9.16 OSS recovery charge is designed to recover all of BellSouth's OSS development costs after three years. It has been calculated by taking BellSouth's expected OSS development costs over a three year period and then dividing the total cost by BellSouth's estimated number of orders over that period.

126. The $9.16 OSS recovery charge is imposed solely on new entrants and is wholly inappropriate. Since each new entrant in the local market will have to establish new and costly processes to interface their electronic ordering systems effectively, each party should be responsible for its own costs in this area. In Louisiana, however, new entrants have to pay to

develop two gateways -- BellSouth's and their own -- while BellSouth pays for none. This is a classic barrier to entry -- a cost borned by an entrant that is not borne by the incumbent.[35]

127. Furthermore, assuming that the OSS recovery charge is appropriate -- which it is not -- neither BellSouth or the LPSC has provided that the charge is to terminate after a three year period when BellSouth has fully recovered all of its OSS development costs. Therefore, BellSouth will realize a revenue windfall at the expense of its competitors.

H. BellSouth's charges for vertical switching features have no cost foundation and represent a substantial impediment to the development of competition for local exchange services.

128. The LPSC adopted a monthly recurring charge of $8.28 for all vertical features. Louisiana Pricing Order at 4. This charge is in addition to and separate from the recurring and non-recurring switch port charges and the recurring per minute of use local switching charge.

129. The LPSC adopted this separate rate for vertical features based on the staff consultant's recommendation, despite the fact that she openly admitted that she was able to conduct only a limited review of the cost of vertical features because of time constraints. She also opined that her $8.28 figure would change if she was provided more time. 10/22/97 Open Session Transcript at 93.

130. The staff consultant's statement to the LPSC, immediately prior to its vote to make the proposed rate permanent, was as follows:

> "[I]n the process of my review, there were certain questions that came to my mind that I felt could be resolved differently rather than just accepting what was in the BellSouth model on vertical features if I had more time and if I had the opportunity to do discovery. . . . If there was addition[al] time or if you opened another docket, the number that might

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35 In addition, imposing all the OSS development costs on competitors eliminates any incentive for BellSouth to develop the most efficient gateway possible.

result from my recommendation could be higher or lower than what you're voting on here today and we don't know that. And it may not be substantially different either, but it would be different. I can tell you that."

10/22/97 Open Session Transcript at 93-94.

131. In calculating the $8.28 monthly recurring charge, the staff consultant relied exclusively on BellSouth's vertical features cost study and all of BellSouth's inputs and assumptions. Her only adjustment to the BellSouth study was to adjust the calculation to reflect the 1997 level of demand for each feature. Hearing Transcript (examination of Dismukes) at 2886, 2913-15, 3072-73, 3116 .

132. Despite her limited review of BellSouth's features cost study and the testimony by a switching expert to the contrary,[36] the staff consultant fully accepted BellSouth's position that vertical features have investment costs separate and in addition to the cost of the switch port. According to BellSouth's witnesses in the state proceedings, these investment costs arise because of processor usage, right to use fees associated with each of the features, and the additional hardware that has to be installed at the switch for a few of the more complex features (i.e., conference circuits for three-way calling). Supplemental Testimony of D. Daonne Caldwell, LPSC Docket No. U-22022/22093 (Aug. 25, 1997) at 2 (BST App. C-3, Tab 273); Hearing Transcript (examination of Garfield) at 807 (BST App. C-3, Tab 275).

133. The staff consultant did not have the time to check how, or even if, processor usage, right to use fees, and additional hardware contribute to the cost of features as claimed by

[36] AT&T witness Catherine Petzinger spent 13 years at Bellcore and was one of three individuals who designed the SCIS/IN switching model, which BellSouth used in Louisiana to determine switching feature costs. See Testimony of Catherine E. Petzinger, LPSC Docket No. U-22022/22093 (Aug. 25, 1997) at 1-2 (BST App. C-3, Tab 267).

BellSouth. To the contrary, she stated that if she had been provided more time, she would have liked to send out additional discovery to clearly identify what the right to use fees are, and to investigate the hardware that BellSouth claims is associated and required with providing certain vertical features.[37] Hearing Transcript (examination of Dismukes) at 3111-12.

134. Instead, due to time constraints, the staff consultant simply adopted, without evaluating or verifying, BellSouth's underlying inputs and assumptions. Hearing Transcript (examination of Dismukes) at 3116.

135. The ALJ recognized that the staff consultant's analysis of vertical features was incomplete and ordered further independent analysis of BellSouth's cost data underlying BellSouth's claims. ALJ Final Rec. at 50-51.

136. Without comment or explanation, the LPSC nevertheless ignored the staff consultant's request for additional time to conduct discovery and analysis, rejected the ALJ's recommendation for such an investigation, and adopted the unsupported (and unsupportable) $8.28 vertical features charge.

137. If this analysis had been undertaken prior to the adoption of permanent rates, such analysis would have showed that a separate charge for vertical features is wholly inappropriate and results in BellSouth's over-recovery for vertical features.

138. Such a finding was made by the Georgia Public Service Commission. As stated by the Georgia PSC, "vertical features should not be priced separately as individual elements, but

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[37] Furthermore, the staff consultant stated that she would have liked more time to look into whether BellSouth simply used the standard plant specific expense for switching or whether BellSouth developed a specific expense factor for features, and why additional land and building loading factors were required if all BellSouth was doing was providing features from the switch. Hearing Transcript (examination of Dismukes) at 3111-12.

should instead be incorporated within the unbundled switch port element." Georgia Pricing Order at 41. In so deciding, the Georgia PSC held that it is not clear that vertical features carries any costs that are not already recovered by the charge for the port. Id.

139. The Georgia PSC's decision with regard to vertical features is correct and fully supported. Vertical features are provided via the switch's computer processor. The one-time, up-front cost of setting up the features in the switch processor is the primary component of vertical feature costs. These "getting started" costs are non-traffic sensitive and therefore already recovered through the non-traffic sensitive cost of the port element.[38]

140. As long as the switch processor has adequate capacity, there will be no additional investment costs when a CLEC orders a feature. BellSouth's own studies indicate that switch processors are consistently underused in Louisiana. Therefore, feature usage is highly unlikely to exhaust the capacity of the switch processor and therefore will not cause any additional processor investments. Testimony of Catherine E. Petzinger, LPSC Docket No. U-22022/22093 (August 25, 1997) at 22-23 (BST App. C-3, Tab 267). As a result, the one-time costs of the switch processor are not affected by the amount of vertical features usage imposed on the network.

141. Right to use fees associated with each feature and the additional hardware required for a small number of features also do not justify a separate charge for vertical features. These costs, if any, are recovered through the charge of the switch port element or minute of use local switching charge, or both.

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[38] BellSouth's feature cost study allocates this non traffic sensitive "getting started" cost to the traffic-sensitive minute of use element of vertical features. This approach is simply sloppy cost analysis and directly violates the principle of cost causation embodied in Michigan Cost Principle #2 adopted by the LPSC. See Louisiana Pricing Order at 3.

142. Right to use fees are up-front, non-traffic sensitive charges and, except possibly for a very small number of features, BellSouth does not incur right to use fees each time a feature is ordered. Hearing Transcript (Dismukes testimony) at 3117; Attachment (Unbundled Network Element (UNE) Studies) to Supplemental Testimony of D. Daonne Caldwell, LPSC Dockets No. U-22022/22093 (Aug. 25, 1997) (BST App. C-3, Tab 273) (characterizing right to use fees as a volume insensitive cost).

143. Instead, BellSouth incurs right to use fees at the time it buys the particular switch and these fees are included in the switching contracts. Therefore, right to use fees are already recovered by BellSouth through the port charge or minute of use charge for local switching, and possibly both. Any recovery of right to use fees through a separate vertical features charge would amount to over-recovery.

144. Similarly, the costs of special hardware associated with a small subset of vertical features are included in the initial, up-front cost of the switch when the switch is purchased. These costs are also already recovered by BellSouth through the port charge or minute of use local switching charge, and possibly both, and their recovery by BellSouth through a separate features charge constitutes over-recovery.

145. BellSouth's separate charge of $8.28 for vertical features has a very large anti-competitive impact. This charge, which for the reasons stated above should be zero, must be paid by CLECs in order to offer local exchange services comparable to and competitive with the services that BellSouth is currently providing. The existence of this charge is equivalent to overstating the rate for another essential unbundled network element (the local loop, for example), by $8.28. As illustrated previously, these costs directly determine the financial

feasibility of a CLEC's competitive local exchange service offerings. Even if the rates for all other UNEs were set at appropriate cost based levels, effective overstatement of a charge for an important UNE by over $8.00 could limit or prevent the development of competition in this market.

146. Furthermore, because vertical features are a lucrative profit center for BellSouth and will almost always be provided by competitors at a loss -- because the $8.28 charge will exceed the retail price that competitors will be able to charge for one or two features -- the separate vertical features charge permanently places new entrants at a competitive disadvantage.

I. The physical collocation rates BellSouth offers are prohibitively and unnecessarily expensive and will deter entry into local exchange markets.

147. BellSouth takes an excessive approach to physical collocation, which is neither cost efficient nor forward-looking and creates a formidable barrier to local entry.

148. For example, the physical collocation rates BellSouth offers reflect the cost of using gypsum and drywall for construction of the collocation enclosure. This type of construction is entirely unnecessary and considerably more expensive and time consuming than constructing a wire mesh metal cage, which MCI proposes in its collocation model and other incumbent LECs, such as Bell Atlantic, offer.

149. The ALJ had determined that the MCI/AT&T collocation model best reflected TELRIC costs, see ALJ Final Rec. at 55, but the LPSC adopted the staff consultant's rates based on BellSouth's drywall "luxury collocation condo" model, even though the staff consultant made clear that she did not have the time to review the MCI/AT&T collocation model at all. See Hearing Transcript (examination of Dismukes) at 3119.

150. Gypsum/dry wall construction is costly and very labor-intensive. It involves, among other things, the following: (1) leaving space at the top and base of each wall for ventillation and application of a rigid polyethylene security screen between the top of the gypsum board and ceiling deck above; (2) wet sanding and finishing the drywall with a paint treatment consisting of latex primer and one coat of satin or eggshell paint; (3) installing an expensive dust partition; (4) installing flush hollow core steel doors complete with welded hollow metal door frames; (5) modifying and/or installing new heating, ventilation, and air conditioning (HVAC) equipment; and (6) installing various electrical components and additional lighting fixtures. See Direct Testimony of Gerald B. Crockett, Docket Nos. U-22022/U-22093 (August 1997) ("Crockett Direct Testimony") at 7-10 (BST App. C-3, Tab 280).

151. BellSouth's gypsum/drywall construction technique is over three times more expensive than metal cage construction. See id. at 12-13.

152. Metal cage materials offer a viable solution to physical collocation -- they are considerably less costly, offers excellent flexibility and a more consistent ambient environment. Metal cage materials are also easier to handle because they come in panel sizes consistent with various collocation enclosures, require very little site preparation, and do not generate the need for costly dust protection during installation.[39] See id. at 11.

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[39] BellSouth justifies its choice of gypsum/drywall construction based on the interest of safety and telecommunications equipment performance. But a number of incumbent LECs throughout the rest of the country, such as Bell Atlantic, are allowing and have already built collocation enclosures using wire mesh without any apparent safety or transmission problems. See Crockett Direct Testimony at 9.

153. As a result of using gypsum/drywall construction to build collocation enclosures, BellSouth has significantly raised the entry costs for its competitors at no cost to itself. This creates a formidable barrier to entry in Louisiana.

J. BellSouth imposes the full cost of interim number portability on new entrants which is inconsistent with the competitively neutral standard of section 251(e)(2).

154. Section 251(e)(2) of the Act requires that the "cost of establishing telecommunications . . . number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." The FCC has stated that interim number portability mechanisms (until the implementation of long-term number portability) must be consistent with section 251(e)(2). See First Report and Order and Further Notice of Proposed Rulemaking, In the Matter of Telephone Number Portability, 11 FCC Rcd. 8352 (July 2, 1996), at ¶ 126.

155. The FCC has determined that an interim number portability cost recovery mechanism that is borne by all telecommunications carriers on a competitively neutral basis must satisfy two criteria. First, it should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber. Id. ¶ 132. Second, it should not have a disparate effect on the ability of competing service providers to earn normal returns on their investments. Id. ¶ 135. "A cost-recovery mechanism that imposes the entire incremental cost of currently available number portability on a facilities-based new entrant would violate" the competitively neutral principle. Id. ¶ 134 (emphasis added).

156. The LPSC, by adopting the consultant's recommended interim number portability rates, which are based on the BellSouth cost model and its particular assumptions related to

interim number portability, see Hearing Transcript (examination of Kimberly Dismukes) at 2943-45, permits BellSouth to charge new entrants the entire cost of interim number portability.

157. This approach clearly violates section 251(e)(2) of the Act and is inconsistent with the interim number portability criteria set forth by this Commission.

158. Imposing the full cost of interim number portability on new entrants is a classic barrier to entry -- a cost borned by an entrant that is not borne by the incumbent.

K. The reciprocal compensation rates BellSouth offers for interconnection reward BellSouth for inefficiency and ensures BellSouth a competitive advantage over new entrants.

159. The staff consultant proposed, and the LPSC adopted, separate rates for "End Office Connection" and "Tandem Connection." See Attachement "A" to Louisiana Pricing Order. There is no explanation or set of terms and conditions present, however, which describes how this rate structure is to be applied when one of the interconnecting carriers has deployed a network architecture other than the tandem-end office arrangement traditionally used by incumbent LECs, including BellSouth.

160. Section 271(c)(2)(B)(xiii) of the Act requires that terms and conditions for the mutual and reciprocal recovery of costs of call transport and termination be established that do not provide a competitive advantage to either carrier. If the recovery of costs associated with the termination of a call that originates on a competitor's network is made truly mutual and reciprocal, neither CLECs nor BellSouth will obtain a competitive advantage from the arrangement.

161. Such an outcome can be assured only if the compensation arrangement focuses on the function being performed -- the termination of a call -- rather than on the simple labeling of the point of interconnection (e.g., end office or tandem) or other extraneous variables. If the

characteristics of each carrier's network -- rather than the function being performed -- is considered when determining the applicable rates for compensation, it will be impossible for two carriers with different network configurations to engage in a compensation arrangement that is truly mutual and reciprocal.

162. At a minimum, terms and conditions for the mutual and reciprocal recovery of costs of call transport and termination must be established that do not reward BellSouth for network inefficiencies that it may experience relative to CLECs or punish CLECs for network efficiencies that they may experience relative to BellSouth. An improper focus on network configurations instead of the function being performed can lead to additional undesirable consequences that can result in higher prices to consumers and thwart the intent of the Act.

163. For example, there is little dispute that, because of significant decreases in the cost of transporting a call relative to the cost of switching, the forward-looking efficient configuration for a local network consists of fewer switching locations and longer transport links. While an incumbent LEC such as BellSouth may serve a given geographic area with multiple end office switches and a tandem switch, a CLEC may elect to serve the same geographic area with a more efficient network configuration using a single switch and high volume transport facilities.[40]

164. A call delivered by the originating carrier to the tandem switch of the incumbent or the single switch of the new entrant will be completed using the terminating carrier's network. While the network routing may be different, the <u>function</u> of call completion will be the same.

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[40] Note that in this example, the fewer number of switches deployed by the CLEC is not a result of smaller traffic volumes, but rather a reflection of a change in the forward-looking efficient network configuration. Even if the CLEC captured a significant market share and carried traffic volumes comparable to BellSouth, it would not find it efficient to duplicate the number of switches used in BellSouth's embedded network to serve the same geographic area.

decision. According to the FCC, BellSouth's refusal is inconsistent with the requirement in section 271(c)(2)(B)(xiv) that it make telecommunications services available for resale in accordance with sections 251(c)(4) and 252(d)(3). Memorandum Opinion and Order, In the Matter of Application by BellSouth Corporation, *et al.* Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Louisiana, CC Docket No. 97-231, 13 F.C.C.R. 6245 (Feb. 4, 1998), at ¶¶ 5, 63-70.

168. On April 30, 1998, BellSouth amended its SGAT to provide that CSAs will be made available at the 20.72 percent resale discount ordered by the LPSC, but only "until such time as a CSA-specific wholesale discount is determined." See Attachment H to BellSouth's Revised SGAT (April 30, 1998) at 1 (BST App. C-1, Tab 150).

169. The LPSC adopted this BellSouth SGAT revision and ordered that a docket be opened to consider the need for a CSA-specific resale discount. LPSC Ex Parte Order No. U-22252-B (June 18, 1998) (BST App. C-1, Tab 150). A decision as to whether such a CSA-specific discount is appropriate and, if so, what this discount should be has not been determined and is not expected for several months.

170. As a result, the LPSC has not made a permanent decision as to whether BellSouth must offer CSAs at the resale wholesale discount of 20.72 percent and, if not, what this CSA-specific resale discount will be. The LPSC's approval of BellSouth's SGAT revision making CSAs available for resale at the 20.72 percent wholesale discount is clearly an interim and temporary provision, and does not provide an indication of what the permanent resolution of this issue will be.

171. An interim decision as to whether CSAs are available for resale at the 20.72 percent wholesale discount suffers the same infirmity that the FCC and the Department of Justice has noted with respect to interim prices.[41]

172. Where a final determination as to what resale wholesale discount should apply to CSAs remains unknown and the possibility exists that the LPSC will substantially reduce the resale discount applicable to CSAs, the FCC has no basis for determining whether BellSouth has complied with the requirement in section 271(c)(2)(B)(xiv) that it make telecommunications services available for resale in accordance with sections 251(c)(4) and 252(d)(3).

173. Further, an interim decision as to the CSA resale discount frustrates Congress' purpose by impeding competition. CLECs are necessarily reluctant to commit resources to enter the local market on a large scale when a condition as important as what resale discount applies to CSAs remains uncertain.

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[41] See Memorandum Opinion and Order, In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Michigan, CC Docket No. 97-298, 12 FCC Rcd. 20543 (Aug. 19, 1997) at ¶ 294; Evaluation of the United States Department of Justice, In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Michigan, CC Docket No. 97-298 at 41-42; see also Evaluation of the United States Department of Justice, In the Matter of Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in South Carolina, CC Docket No. 97-208 at 40 ("[C]ompetitors must have sufficient confidence about future prices to justify prudent investments in entry. . . . Without some basis for confidence that future prices will be appropriate, we will not consider a market to be fully and irreversibly open to competition.").

165. If a rate structure with different compensation amounts for tandem and end office termination is adopted in this environment, as it has been in Louisiana, the tandem switch of the incumbent and the single switch of the new entrant must be considered as tandem locations for purposes of determining compensation (and terms and conditions must be in place to codify this requirement).

166. Such an approach is easily seen to be correct if the function of call completion is considered -- each carrier can originate a call, deliver it to a single point of switching in its competitor's network, and have the call completed to any point within the geographic area served by the switch to which the call was delivered. If the CLEC switch is considered an end office for purposes of compensation, the CLEC will receive less compensation for performing the same function of call completion to a given area. Otherwise, in order for a CLEC to be "mutually and reciprocally" compensated under this scenario, it must duplicate the inefficient network arrangement of BellSouth by deploying multiple end office switches and designating a tandem location. Clearly, a compensation arrangement that forces a CLEC to invest in inefficient network arrangements will fail to serve the public interest (end users will not receive the lower rates associated with efficient investment) and cannot be considered mutual and reciprocal in terms of the Act.

The LPSC's Decision Making the Resale Discount Applicable to Contract Service Arrangements is Merely Interim

167. In rejecting BellSouth's previous application for authorization under section 271 to provide interLATA services in Louisiana, the FCC cited BellSouth's refusal to offer its contract service arrangements ("CSAs") for resale at a wholesale discount as a principal reason for its

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on July 31, 1998.

Don J. Wood

ATTACHMENT 1

Georgia Public Service Commission

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Docket No. 7061-U

ORDER ESTABLISHING COST-BASED RATES

In re: Review of Cost Studies, Methodologies, and Cost-Based Rates for Interconnection and Unbundling of BellSouth Telecommunications Services

Record Submitted: September 19, 1997 Date Decided: October 21, 1997

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BY THE COMMISSION:

The Georgia Public Service Commission ("Commission") opened this proceeding in order to review cost studies and methodologies and establish cost-based rates applicable to BellSouth Telecommunications, Inc.'s ("BellSouth") interconnection and unbundling including the unbundled network elements, nonrecurring charges, collocation, and access to poles, ducts, conduits and rights-of-way. The setting of these rates concludes a substantial leg of the journey toward full competition in the telecommunications marketplace in Georgia. The Commission's stated goals were to adopt a preferred methodology, approve a cost study or set of cost studies, and determine the resulting cost-based rates for interconnection with and the unbundling of BellSouth's telecommunications services, pursuant to the federal Telecommunications Act of 1996 ("1996 Act"), especially Sections 251 and 252, and the Georgia Telecommunications and Competition Development Act of 1995 ("Georgia Act"), O.C.G.A. § 46-5-160 *et seq.* The Commission's review herein will enable the Commission to meet its responsibilities under both Acts.

In summary, the Commission has adopted the use of BellSouth's cost studies with specific adjustments. These adjustments include a lower cost of capital, lower depreciation rates, slightly higher fill factors, a corrected loop sample, and moving certain shared costs from nonrecurring charges to recurring rates. The adjustments result in a 2-wire analog unbundled loop recurring (monthly) rate of $16.51. The nonrecurring charge associated with the 2-wire analog loop is $42.54.[1] The Commission does not adopt BellSouth's proposed Residual Recovery Requirement. The Commission also determines that all features associated with the switch should be included with the unbundled switch port element.

As to collocation, the Commission adopts charges for the space preparation portion of the amounts charged to CLECs that are specified at $100 per square foot, with a minimum 100-square foot space that a CLEC may order. Additional space may be ordered in 50-square foot increments. All other rates contained in the BellSouth "Collocation Handbook" are adopted. However, the CLEC will be allowed to elect wire mesh cage construction as an alternative to gypsum (plywood), with no change in the cost.

The remaining findings, conclusions and adjustments are detailed in this Order. These include adopting the FCC formula for computing pole rental (currently at a rate of $4.20); revising the pricing structure for OSS electronic interface cost recovery to remove per-order charges; remaining with geographically averaged rates at this time; and reaffirming the Commission's previous decision in the arbitration proceedings that recombination of the loop and port elements to replicate BellSouth retail services shall be priced and treated as resale under the federal Telecommunications Act of 1996 ("1996 Act").

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[1] As discussed later in this Order, the Commission did not adopt a separate disconnection charge of $11.00 that would have been payable if and when the CLEC asks for disconnection of the loop.

TABLE OF CONTENTS

I. INTRODUCTION

A. Introductory Summary

The Commission stated in its initial Procedural and Scheduling Order that the Commission sought to determine appropriate methodologies and cost studies, and the resulting cost-based rate amounts, for certain items. Following is that list of items, including a summary of the Commission's determination as to each item. Further detail is contained in the following sections of this Order.

1) The minimum set of unbundled network elements required to be offered on a non-discriminatory basis.

The Commission adopts a forward-looking approach for unbundled network element ("UNE") prices that recognizes BellSouth's existing network configuration and recalculates the associated costs using forward-looking technology. Consistent with this approach, the Commission does not allow BellSouth's proposed Residual Recovery Requirement ("RRR") because the RRR would cause the essentially forward-looking prices to revert back to historical, embedded-cost prices that are conceptually the same as rate of return or rate-based prices. The Commission also adopts specific adjustments to certain assumptions that BellSouth utilized, including cost of capital, depreciation, fill factors, shared costs for direct labor rates, and the loop sample used for BellSouth's cost study.

For non-recurring charges, the Commission adopts an adjustment to remove BellSouth's assumed shared cost associated with direct labor rates. The Commission also adopts a rate design change to remove the disconnection charges from the non-recurring service order charges. Finally, as discussed below, the per-order charges should not include cost recovery for the development of electronic interfaces to operational support systems ("OSS"). The Commission adopts a rate design for OSS cost recovery that includes volume discounts which should promote the usage of BellSouth's newly developed electronic interfaces. The Commission will also direct BellSouth to file for the Commission's review further information about the OSS costs, once BellSouth has implemented the long-term electronic interfaces that were scheduled by December, 1997.

2) The provision of access to such unbundled network elements.

The Commission establishes herein the prices all BellSouth's unbundled network elements. As a part of this, the Commission determines that switch vertical features should not be priced as individual elements but incorporated within the unbundled switch port element. This can be viewed as an aspect of UNE rate design; the port element should be available at one price that includes all the switch features.

3) Compensation for transport and termination of local telecommunications traffic.

The Commission establishes the rates for compensation for transport and termination of local telecommunications traffic, as a function of the BellSouth cost study pursuant to the adjustments the Commission has adopted. As to the rate design for compensation for transport and termination of local traffic, the Commission affirms the pricing policy it established in the MCI-BellSouth arbitration (Docket No. 6865-U).

4) **Physical and virtual collocation.**

Collocation occurs when a CLEC shares space with BellSouth in order to provide its services. For physical collocation rates, the Commission provides for the development of specified rates including those for space preparation, rather than the unspecified "individual case basis" ("ICB") approach that BellSouth submitted. The CLEC shall also be able to elect wire mesh cage construction as an alternative to gypsum (plywood).

5) **The treatment of joint and common costs, including common costs that cannot be attributed directly to individual elements (*see* FCC rule, 47 C.F.R. Section 51.505).**

As mentioned above, the Commission adopts an adjustment to remove BellSouth's assumed shared cost associated with direct labor rates within the non-recurring charges. This cost is then added back in a manner that slightly increases the recurring charges.

6) **Any deaveraging, such as geographic deaveraging, that parties may propose.**

The Commission does not adopt any geographic deaveraging at this time of the rates in this proceeding. Deaveraging of the cost-based rates should instead be determined in connection with universal service and/or Universal Access Fund considerations.

7) **Any other aspect(s) of interconnection with and unbundling of BellSouth's telecommunications services.**

The Commission adopts pole rental rates that reflect the FCC's current formula, under the category of access to poles, ducts, conduits and rights-of-way.

For OSS cost recovery, the Commission adopts a rate design different than proposed by BellSouth that will be more conducive to competition. This includes removal of OSS charges within the per-order service (non-recurring) charge, in order to avoid "chilling" the placing of orders, and adopting a rate design with volume discounts.

B. Jurisdiction

The 1996 Act includes at Sections 251 and 252(d) certain pricing standards and other requirements relating to interconnection and access to unbundled elements. Section 251(c)(3) provides, with respect to access to unbundled network elements such as unbundled loops, that each incumbent local exchange carrier ("ILEC") has the duty:

> to provide . . . nondiscriminatory access to network elements on an unbundled basis . . . on rates, terms, and conditions that are just,

reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252 . . .

Section 252(d) contains pricing standards for interconnection and network element charges, and for charges for transport and termination of traffic. The former must be based upon the cost of providing the interconnection or network element. The latter must provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and the terms and conditions must determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls. These pricing standards, including rules of construction, are contained in Section 252(d)(1) and (2). Section 252(d)(1) provides the following pricing standard for the rates:

> Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for the purposes of subsection (c)(2) of section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section --
> (A) shall be -
> (i) based on the cost (determined without reference to the rate-of-return or other rate-based proceeding) of providing the . . . network element . . ., and
> (ii) nondiscriminatory, and
> (B) may include a reasonable profit.

The cost-based rates established in this docket will provide closure to the interim rates set in the Commission's arbitrations under Section 252 of the 1996 Act.[2] The Commission recognizes that the

[2] The Commission stated in the early Section 252 arbitration dockets (e.g., MFS-BellSouth, Docket No. 6759-U; AT&T-BellSouth, Docket No. 6801-U), as it did in the state-law proceedings on MFS' and MCI's petitions about BellSouth's interconnection rates in Dockets No. 6415-U/6537-U, that the generic cost study proceeding established in this docket would be necessary in order for the Commission to establish permanent rates for unbundled loops and other aspects of interconnection and unbundled network elements. The 1996 Act provides that the Commission may direct parties to provide such information as may be necessary for the Commission to reach a decision on unresolved issues in an arbitration. Section 252(b)(4)(B). Similarly, the Georgia Act vests the Commission with authority to obtain information necessary to carry out its responsibilities. These provisions supported the Commission's proceedings in this docket.

The permanent rates established in this docket will also be used in many instances as the basis for true-up mechanisms associated with interim rates (e.g., in the MFS-BellSouth arbitration, Docket No. 6759-U; AT&T-BellSouth arbitration, Docket No. 6801-U; MCI-BellSouth arbitration, Docket No. 6865-U; and Sprint-BellSouth arbitration, Docket No. 6958-U; as well as many of BellSouth's negotiated interconnection agreements).

The Commission also noted in its proceeding involving BellSouth's Revised Statement of Generally rates established in this docket will also be applied to BellSouth's Revised Statement of Generally Available Terms and Conditions pursuant to the Commission's decision in Docket No. 7253-U.

In addition to its jurisdiction of this matter pursuant to Sections 251 and 252 of the federal Act, the Commission also has general authority and jurisdiction over the subject matter of this proceeding, conferred upon the Commission by Georgia's Telecommunications and Competition Development Act of 1995 (the "Georgia Act"), O.C.G.A. §§ 46-5-160 *et seq.*, and generally O.C.G.A. §§ 46-1-1 *et seq.*, 46-2-20, 46-2-21, and 46-2-23; and this proceeding shall be conducted in accordance with any relevant provisions of the Georgia Administrative Procedure Act, O.C.G.A. Ch. 13, Title 50, and the Rules and Regulations of the Commission, as such statutes and rules may be applicable to this proceeding.

The Georgia Act contains several provisions pertaining to interconnection and unbundling. All local exchange companies are required to permit reasonable interconnection with other certificated local exchange companies. This includes all or portions of such services as needed to provide local exchange services. The rates, terms, and conditions for such interconnection services shall not unreasonably discriminate between providers. O.C.G.A. § 46-5-164(a), (b). In the event that the parties cannot reach agreement through negotiation, the Commission shall determine the reasonable rates, terms, or conditions for the interconnection services. *Id.*, subsections (b), (c). Many interconnection agreements, especially between BellSouth and the smaller CLECs, already have been negotiated, filed with and approved by this Commission under the 1996 Act. In addition, four arbitrations have been conducted for larger CLECs, and BellSouth's proposed Statement of Generally Available Terms and Conditions in Docket No. 7253-U relied upon the interim rates subject to true-up according to the cost-based rates established in this docket. Those proceedings demonstrated that a full, generic review was necessary and invaluable in resolving the cost issues associated with interconnection and unbundling.

The Georgia Act provides further that interconnection services shall be provided for intrastate services on an unbundled basis similar to that required by the FCC for services under the FCC's jurisdiction. The Commission also has the authority to require local exchange companies to provide additional interconnection services and unbundling. O.C.G.A. § 46-5-164(d).

The Commission's jurisdiction under the Georgia Act includes the authority, among other matters, to establish reasonable rules and methodologies for performing cost allocations among the services provided by a telecommunications company. O.C.G.A. § 46-5-168(b)(9).[3]

Available Terms and Conditions (Docket No. 7253-U) that the established rates in this proceeding would provide the cost-based rates replacing the interim rates contained in that Revised Statement.

[3] The Georgia Act also imposes certain cost and price-related obligations on telecommunications companies that elect alternative regulation. These include prohibitions against cross-subsidy of nonregulated or alternatively regulated services with revenue created by regulated services, and against anticompetitive acts

Moreover, pursuant to O.C.G.A. § 46-2-20(a), the Commission has general supervision of all telephone companies. *See also* O.C.G.A. § 46-2-21(b)(4); *Camden Tel. & Tel. Co. v. City of St. Marys*, 247 Ga. 687, 279 S.E.2d 200 (1981); *City of Dawson v. Dawson Tel. Co.*, 137 Ga. 62, 72 S.E. 508 (1911). Pursuant to O.C.G.A. § 46-2-20(b), the Commission is also authorized to perform the duties imposed upon it of its own initiative.

The Commission has access to the books and records of telecommunications companies as may be necessary to ensure compliance with the provisions of the Georgia Act and with the Commission's rules and regulations, and to carry out its responsibilities under the Georgia Act. O.C.G.A. § 46-5-168(e). The Commission also has the general authority, pursuant to O.C.G.A. § 46-2-20(e), to examine the affairs of all companies under its supervision and to keep informed as to their general condition, their capitalization, and other matters, not only with respect to the adequacy, security, and accommodation afforded by their service to the public and their employees but also with reference to their compliance with all laws, orders of the Commission, and charter requirements. Pursuant to subsection (f) of that section, the Commission has the power and authority to examine all books, contracts, records, papers, and documents of any person subject to its supervision and to compel the production thereof.

C. FCC Rules and Eight Circuit Decision

The Commission recognizes that certain rulings and decisions at the federal level have some bearing upon this proceeding. The Federal Communications Commission ("FCC") issued its First Report and Order (Order No. 96-325, CC Docket No. 96-98) on August 8, 1996, adopting rules that were to become effective on September 30, 1996 ("First Report and Order"). However, a number of those rules especially as to pricing were vacated by the Eighth Circuit Court of Appeals.[4] The rules adopted by the FCC associated with its Report and Order remain in place except the following sections:

- Total Element Long Run Incremental Cost (TELRIC) pricing methodology, proxy prices for unbundled elements and other pricing rules (§§ 51.315(b-f), 51.501 through 51.515 (inclusive, except for Section 51.515(b) which the Court found to be a legitimate interim rate for interstate access charges), 51.601-51.611 (inclusive), 51.701-51.717 (inclusive, except for 51.701, 51.703,51.709(b), 51.711(a)(1), 51.715(d), and 51.717, but only as they apply to Commercial Mobile Radio Service (CMRS) providers));

or practices such as price squeezing, price discrimination, predatory pricing, or tying arrangements. O.C.G.A. § 46-5-169(4), (5).

[4] *See Iowa Utilities Board, et al. v. FCC*, No. 96-3321 (8th Cir., July 18, 1997), *and Iowa Utilities Board, et al. V. FCC*, Order on Petitions for Rehearing (8th Cir., Oct. 14, 1997)(vacating FCC Rule § 51.315(b-f)).